

Guidelines for Medicare Set-Aside Accounts in Lump Sum Settlements

Medicare status and lump sum settlement amount:	Does the application need to address Medicare's interest?	Is the CMS letter required prior to approval of the application?	Can the set-aside amount be used in calculating indemnity due?	What language must be used in the proposed order of approval?
Medicare beneficiary and settlement amount is over \$25,000.00 (current CMS review threshold).	YES.	YES.	NO. Set-aside amounts do not count as indemnity. Settlement amount alone must be sufficient to cover the indemnity due.	Settlement amount and set-aside amounts listed separately. For example, "upon payment of \$50,000.00 plus \$10,000.00 to fund a Medicare Set-Aside . . ."
Medicare beneficiary and settlement amount is under \$25,000.00.	YES.	NO (below threshold).	NO. Set-aside amounts do not count as indemnity. Settlement amount alone must be sufficient to cover the indemnity due.	Settlement amount and set-aside amounts listed separately. For example, "upon payment of \$15,000.00 plus \$1,000.00 to fund a Medicare Set-Aside . . ."
Reasonable expectation ¹ of becoming Medicare beneficiary within 30 months and settlement amount is over \$250,000.00.	YES.	YES.	NO. Set-aside amounts do not count as indemnity. Settlement amount alone must be sufficient to cover the indemnity due.	Settlement amount and set-aside amounts listed separately. For example, "upon payment of \$255,000.00 plus \$50,000.00 to fund a Medicare Set-Aside . . ."
Reasonable expectation ¹ of becoming Medicare beneficiary within 30 months and settlement amount is under \$250,000.00.	NO. Parties do not need to address Medicare's interests when claimant is not a current Medicare beneficiary and the settlement is below the CMS review threshold.	NO (below threshold).	YES. Any set-aside would be voluntary and the entire amount can be used to calculate indemnity coverage.	Total amount can include any voluntary set-aside funds.
No reasonable expectation ¹ of becoming Medicare beneficiary within 30 months, regardless of settlement amount.	NO.	NO.	YES. Any set-aside would be voluntary and the entire amount can be used to calculate indemnity coverage.	Total amount can include any voluntary set-aside funds.

¹One has a "reasonable expectation" of becoming a Medicare beneficiary within 30 months when: he/she has applied for SSDI (becomes eligible for Medicare after receiving SSDI for 24 months) OR he/she is age 62.5 (will be eligible when he/she turns 65, which is within 30 months) OR he/she is appealing a denial of an application for Social Security benefits.